

**§ 2711. Exempted egg producers and breeding hen flocks; conditions and procedures**

**(a) In general**

The following shall be exempt from the specific provisions of this chapter under such conditions and procedures as may be prescribed in the order or rules and regulations issued thereunder:

(1) Any egg producer whose aggregate number of laying hens at any time during a 3-consecutive-month period immediately prior to the date assessments are due and payable has not exceeded 75,000 laying hens, as determined under subsection (b) of this section.

(2) Any flock of breeding hens whose production of eggs is primarily utilized for the hatching of baby chicks.

**(b) Number of laying hens**

**(1) In general**

For purposes of subsection (a)(1) of this section, the aggregate number of laying hens owned by an egg producer shall include—

(A) in cases in which the producer is an individual, laying hens owned by such producer or members of such producer's family that are effectively under the control of such producer, as determined by the Secretary;

(B) in cases in which the producer is a general partnership or similar entity, laying hens owned by the entity and all partners or equity participants in the entity; and

(C) in cases in which the producer holds 50 percent or more of the stock or other beneficial interest in a corporation, joint stock company, association, cooperative, limited partnership, or other similar entity, laying hens owned by the entity.

Ownership of laying hens by a trust or similar entity shall be considered ownership by the beneficiaries of the trust or other entity.

**(2) Stock or beneficial interests**

For purposes of paragraph (1)(C), stock or other beneficial interest in an entity that is held by—

(A) members of the producer's family described in paragraph (1)(A);

(B) a general partnership or similar entity in which the producer is a partner or equity participant;

(C) the partners or equity participants in an entity of the type described in subparagraph (B); or

(D) a corporation, joint stock company, association, cooperative, limited partnership, or other similar entity in which the producer holds 50 percent or more of the stock or other beneficial interests,

shall be considered as held by the producer.

(Pub. L. 93-428, §12, Oct. 1, 1974, 88 Stat. 1176; Pub. L. 101-220, §3(a), Dec. 12, 1989, 103 Stat. 1877; Pub. L. 103-188, §4, Dec. 14, 1993, 107 Stat. 2257.)

AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103-188 substituted “75,000” for “30,000”.

1989—Pub. L. 101-220 amended section generally. Prior to amendment, section read as follows: “The following may be exempt from specific provisions of this chapter

under such conditions and procedures as may be prescribed in the order or rules and regulations issued thereunder:

“(a) Any egg producer whose aggregate number of laying hens at any time during a three-consecutive-month period immediately prior to the date assessments are due and payable has not exceeded three thousand laying hens.

“(b) Any flock of breeding hens whose production of eggs is primarily utilized for the hatching of baby chicks.”

EGG PROMOTION AND RESEARCH ORDER

Section 3(b) of Pub. L. 101-220 provided that:

“(1) AMENDMENT.—The Secretary of Agriculture shall issue an amendment to the egg promotion and research order issued under the Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.) to implement the amendments made by this section [amending this section]. Such amendment shall be issued after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title. The Secretary shall issue a proposed amendment to such order not later than 30 days after the date of enactment of this Act [Dec. 12, 1989].

“(2) EFFECTIVE DATE.—The amendment to the egg promotion and research order required by paragraph (1) shall become effective no later than March 1, 1990, and shall not be subject to a referendum under the Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.).”

**§ 2712. Refund of assessment from Egg Board**

**(a) Procedures**

Notwithstanding any other provisions of this chapter except as provided in subsection (b) of this section, any egg producer against whose commercial eggs any assessment is made and collected from him under authority of this chapter and who is not in favor of supporting the programs as provided for herein shall have the right to demand and receive from the Egg Board a refund of such assessment: *Provided*, That such demand shall be made personally by such producer in accordance with regulations and on a form and within a time period prescribed by the Board and approved by the Secretary but in no event more than ninety days after the end of the month in which the assessments are due and collectable, and upon submission of proof satisfactory to the Board that the producer paid the assessment for which refund is sought, and any such refund shall be made within sixty days after demand is received therefor.

**(b) Amendment of order to eliminate producer refund; effective date; refund referendum; escrow account; requirements for one-time refund; proration of refunds**

(1) With regard to each order issued under this chapter that provides for a producer refund, the Secretary shall amend such order to eliminate such refund.

(2) Notwithstanding sections 2708 and 2710 of this title, an amendment made by the Secretary pursuant to paragraph (1)—

(A) shall take effect on the date that the Secretary issues the amendment; and

(B) shall not be subject to a referendum under section 2708 or 2709(b) of this title until the end of the 18-month period beginning on such effective date.

(3) During the period prior to the referendum of an amendment issued pursuant to paragraph